

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID NATHANIEL ROBERTS,

Plaintiff,

v.

KERN VALLEY STATE PRISON, *et al.*,

Defendants.

CASE NO. 1:24-cv-01201-EPG (PC)

ORDER TO ASSIGN A DISTRICT JUDGE

AND

FINDINGS AND RECOMMENDATIONS
TO DISMISS THIS ACTION WITHOUT
PREJUDICE FOR FAILURE TO PAY A
FILING FEE OR SUBMIT AN APPLICATION
TO PROCEED *IN FORMA PAUPERIS*

OBJECTIONS, IF ANY, DUE WITHIN
THIRTY DAYS

Plaintiff David Nathaniel Roberts is a state prisoner proceeding *pro se* in this civil rights lawsuit filed pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action by filing a complaint on October 7, 2024. (ECF No. 1). However, Plaintiff neither paid the filing fee for this action nor submitted an application to proceed *in forma pauperis* (IFP). The Court issued an order on October 8, 2024, giving Plaintiff forty-five days to either (1) submit a completed and signed IFP application or (2) pay the filing fee of \$405. (ECF No. 3). The Court warned Plaintiff that “[f]ailure to comply with this order will result in dismissal of this action.” (*Id.*) The forty-five-day period has expired, and Plaintiff has failed to pay the filing fee, submit a completed and signed IFP application, or otherwise respond to the Court’s order.

1 Accordingly, **IT IS ORDERED** that:

2 1. The Clerk of Court shall assign a district judge to this case.

3 And **IT IS RECOMMENDED** that:

4 1. This action be dismissed, without prejudice, for Plaintiff's failure to pay the filing
5 fee pursuant to 28 U.S.C. § 1914 or to file an application to proceed *in forma*
6 *pauperis* pursuant to 28 U.S.C. § 1915; and

7 2. The Clerk of Court be directed to close this case.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after
10 being served with these findings and recommendations, Plaintiff may file written objections with
11 the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and
12 Recommendations." Any objections shall be limited to no more than fifteen pages, including
13 exhibits. Plaintiff is advised that failure to file objections within the specified time may result in
14 the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014)
(citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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16 IT IS SO ORDERED.

17 Dated: December 9, 2024

18 /s/ *Eric P. Groj*
19 UNITED STATES MAGISTRATE JUDGE

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